Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
Peter E Grays MD

Respondent Name
Seabright Insurance Co

MFDR Tracking Number
M4-14-0588-01

Carrier's Austin Representative
Box Number 19

MFDR Date Received
October 11, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Seabright Insurance has failed to process reimbursement for surgical procedures performed during (claimant) surgical session."

Amount in Dispute: $1,750.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The carrier asserts that it has paid according to applicable fee guidelines and challenges whether the disputed charges are consistent with applicable fee guidelines."

Response Submitted by: Flahive Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 18, 2012	55520, 64774	$1,750.00	$1,280.82

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - 907- Based upon clinical review, payment for this service has been denied as medical documentation does not support the services rendered

Issues

1. Did the requestor support disputed services are separately payable?
2. What rule that determines reimbursement guidelines?
3. Is requestor due additional reimbursement?

Findings

1. 28 Texas Administrative Code §134.203(b) states, "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; …and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules. Review of the submitted medical claim finds use of the 59 modifier. The definition of 59 modifier is in pertinent part, "Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual." The Division finds use of the modifier and submitted documentation does support separate procedure on some of the disputed services. Explanation found below.
2. The Maximum Allowable Reimbursement for the disputed services is calculated as;
    - Procedure code 49561, service date October 18, 2012, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 15.38 multiplied by the geographic practice cost index (GPCI) for work of 1.009 is 15.51842. The practice expense (PE) RVU of 8.49 multiplied by the PE GPCI of 1.017 is 8.63433. The malpractice RVU of 3.24 multiplied by the malpractice GPCI of 0.834 is 2.70216. The sum of 26.85491 is multiplied by the Division conversion factor of $68.88 for a MAR of $1,849.77.
    - Per Medicare policy, procedure code 49568, service date October 18, 2012, may not be reported with the procedure code for another service billed on this same claim. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be justified if a modifier is used appropriately. The provider billed the disputed service with an appropriate modifier. Separate payment is allowed. Procedure code 49568 represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 4.88 multiplied by the geographic practice cost index (GPCI) for work of 1.009 is 4.92392. The practice expense (PE) RVU of 1.92 multiplied by the PE GPCI of 1.017 is 1.95264. The malpractice RVU of 1.03 multiplied by the malpractice GPCI of 0.834 is 0.85902. The sum of 7.73558 is multiplied by the Division conversion factor of $54.86 for a MAR of $424.37.
    - Procedure code 49507, service date October 18, 2012, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 9.09 multiplied by the geographic practice cost index (GPCI) for work of 1.009 is 9.17181. The practice expense (PE) RVU of 6.13 multiplied by the PE GPCI of 1.017 is 6.23421. The malpractice RVU of 1.92 multiplied by the malpractice GPCI of 0.834 is 1.60128. The sum of 17.0073 is multiplied by the Division conversion factor of $68.88 for a MAR of $1,171.46.
    - Per Medicare policy, procedure code 55520, service date October 18, 2012, may not be reported with procedure code 49507 billed on this same claim. Provider submitted the 59 modifier however; this procedure by definition is usually a component of a more complex service and is not identified separately.
    - Per Medicare policy, procedure code 64774, service date October 18, 2012, may not be reported with the procedure code for another service billed on this same claim. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be justified if a modifier is used appropriately. The provider billed the disputed service with an appropriate modifier. Separate payment is allowed. Procedure code 64774 represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 5.8 multiplied by the geographic practice cost index (GPCI) for work of 1.009 is 5.8522. The practice expense (PE) RVU of 5.42 multiplied by the PE GPCI of 1.017 is 5.51214. The malpractice RVU of 1.05 multiplied by the malpractice GPCI of 0.834 is 0.8757. The sum of 12.24004 is multiplied by the Division conversion factor of $68.88 for a MAR of $843.09. Per §134.203(h), reimbursement is the lesser of the MAR or the provider's usual and customary charge. The lesser amount is $750.00.
3. The total allowable reimbursement for the services in dispute is $4,195.60. This amount less the amount previously paid by the insurance carrier of $2,914.78 leaves an amount due to the requestor of $1,280.82. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $1,280.82.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $1,280.82 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

		July 21, 2014
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.